

**FIFTH DAY.**

(Continued.)

Senate Chamber,  
Austin, Texas,  
September 17, 1931.

The Senate met at 10 o'clock a. m., pursuant to recess, and was called to order by Lieutenant Governor Edgar E. Witt.

At Ease.

Senator Purl received unanimous consent for the Senate to stand at ease for 30 minutes.

**In Session.**

The Senate was called to order at 10:45 o'clock by Lieutenant Governor Edgar E. Witt.

**Senate Bill No. 13.**

The Chair laid before the Senate by unanimous consent the following bill:

By Senator Rawlings:

S. B. No. 13, A bill to be entitled "An Act to amend Article 7332, Chapter 10, Title 122, of the Revised Civil Statutes of Texas, 1925, as amended by the Act of the Forty-first Legislature passed at its Regular Session, and found in the published laws of said session, Chapter 143, page 307-8, and as amended by the Acts of the Fourth Called Session of the Forty-first Legislature, as the same appear in the published laws of said session, Chapter 20, page 37, and as amended by the Forty-second Legislature at its Regular Session as same appears in the published laws of said session, Chapter 258, page 428, and providing that the officers herein named shall not be entitled to the fees provided for herein in delinquent tax suits until actual notice is given to the delinquent owner as provided for in Article 7324; to repeal all laws in conflict herewith, and declaring an emergency."

The committee report was adopted.

Read second time.

Senator Rawlings sent up the following amendment:

Amend Senate Bill No. 13 by striking out, beginning with the words "the sheriff" in line 26, page 2, down to and including the words "for same" in line 28, page 2, and substituting in lieu thereof the following:

"The sheriff or constable of the county in which the suit is pending shall receive a fee of \$2.00 in each case which will cover the service of all process, and the selling of the property and executing deeds for same. If, in any such suit, process is issued to be served in counties other than the one in which the suit is pending, the sheriff or constable serving the same shall receive a fee of \$1.00 in each suit for his services."

**RAWLINGS.**

Read and adopted.

The bill was passed to engrossment.

On motion of Senator Rawlings the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 13, was put on its third reading and final passage, by the following vote:

Yeas—30.

Beck.	Parr.
Berkeley.	Parrish.
Cousins.	Patton.
Cunningham.	Poage.
DeBerry.	Pollard.
Gainer.	Purl.
Greer.	Rawlings.
Hardin.	Russek.
Holbrook.	Small.
Hopkins.	Stevenson.
Hornsby.	Thomason.
Martin.	Williamson.
Moore.	Woodruff.
Neal.	Woodul.
Oneal.	Woodward.

Absent—Excused.

Loy.

Read third time and finally passed by the following vote:

Yeas—30.

Beck.	Parr.
Berkeley.	Parrish.
Cousins.	Patton.
Cunningham.	Poage.
DeBerry.	Pollard.
Gainer.	Purl.
Greer.	Rawlings.
Hardin.	Russek.
Holbrook.	Small.
Hopkins.	Stevenson.
Hornsby.	Thomason.
Martin.	Williamson.
Moore.	Woodruff.
Neal.	Woodul.
Oneal.	Woodward.

Absent—Excused.

Loy.

**Simple Resolution No. 10.**

Senator Woodul sent up the following resolution:

Whereas, The American Prison Congress is to meet in Baltimore, Maryland, October 18th to 23rd, and

Whereas, The State of Texas is naturally interested in prison matters, and it is the understanding of the Senate of Texas that the City of Houston is going to extend an invitation to said congress to hold its annual meeting in Houston in October, 1932; now therefore,

Be It Resolved, By the Senate of Texas, that we add our hearty invitation to that of the City of Houston to the American Congress to meet in Houston in October, 1932, and that copies of this resolution be delivered to the Texas representatives in attendance upon said congress for delivery.

WOODUL,  
WILLIAMSON,

Read and adopted.

**S. C. R. No. 7.**

Senator Neal sent up the following resolution:

Whereas, The distressing condition of the cotton industry and of the cotton farmer of the South and of the nation is due equally as much to under-consumption of the staple as to over-production, and

Whereas, Cotton as a commodity for personal, household and general use has fallen into disrespect and disuse among the people of our country, and

Whereas, New uses for cotton must be found if its standing as an agricultural product and as a commercial commodity shall be supreme, as in past years, now, therefore,

Be It Resolved, That the Senate of Texas, the House of Representatives concurring, do endorse a movement for greater usage of cotton, and recommend to the State and to the nation that more practical uses for cotton be found, to the end that the demand may be greater and the great surplus now on hand, which is

depressing the cotton market, be found.

Be It Further Resolved, That the Governors and Legislatures of the various cotton producing states of the Union, the President of the United States and the American Congress be memorialized to urge upon the people of the South and of the nation the imperative need for removing one of the chief causes of the depression in this country, occasioned by the under consumption of cotton supplies and surpluses.

Be It Further Resolved, That friends of the cotton industry and special cotton technicians be urged to submit the best practical and workable plan or plans for the usage of cotton, said plan or plans to be submitted to a committee of nine members, to be distributed widely throughout the State, three to be appointed by the Governor, three by the President of the Senate, and three by the Speaker of the House of Representatives, the personnel of said committee to be technical experts and practical technicians, with the exception of three members of the Legislature, who may or may not be technicians, one of whom shall be appointed by each of the three appointive powers.

Be It Further Resolved, That when the committee shall have reported their decision to the Governor of Texas that he shall immediately issue a proclamation as to same to the people of the State, announcing the three plans submitted,—first, second and third best—and the names of persons submitting such plan or plans, and he shall also send a message to the House and Senate at the next regular or special session of the Legislature, embodying the report of the committee, said report to become a part of the official records of the Legislature of this State.

NEAL.

Read and adopted.

**Recapitulation Ordered Printed.**

Senator Purl received unanimous consent to have printed in the Journal the following recapitulation of fees and expenses of insurance examiners:

**A LIST OF EXAMINERS AND THEIR TOTAL BILLS FOR EXAMINATIONS MADE UNDER  
THE TEXAS DEPARTMENT OF INSURANCE FOR THE PAST FIVE YEARS**

NAME OF FIRM.	ADDRESS.	FEE.
Barrow, Wade, Guthrie & Company	Houston, Texas	\$ 650.00
H. A. Carter Company	Southwestern Life Building, Dallas, Texas	2,550.00
Jess D. Carter	Deputy Life Insurance Commissioner, Austin, Texas.	
Neil J. Gilligan	Milam Building, San Antonio, Texas	2,700.01
W. R. Halliday	Consulting Actuary, Seattle, Washington	Copy of bill no
O. W. Hardy	406 Milam Building, San Antonio, Texas	25.00
Hutchinson & Smith	Santa Fe Building, Dallas, Texas	9,553.50
Hutchinson, Smith, Prince, & Harris	Santa Fe Building, Dallas, Texas	35,028.55
Lynn & McCulloch	Accountants & Auditors, Dallas, Texas	12,097.29
A. A. McGrath	(Deceased)	12,080.00
J. R. Maceo & Company	501-2 W. T. Waggoner Building, Fort Worth, Texas.	235.00
Harry C. Marvin	2105 North Meridian St., Indianapolis, Indiana.	687.50
Cecil Mitchell	1709 Brazos Street, Austin, Texas	3,221.60
Merlin Oates	Care Capitol Life Insurance Company, Denver, Colorado.	675.00
Schoolar, Bird, & McCulloch	Accountants & Auditors, Dallas, Texas	31,470.36
W. W. Scott	Accountant & Auditor, Santa Monica, California.	*4,875.00
A. W. Simon	Public Accountant, 441 Devine St., San Antonio, Texas.	Copy of bill no
Smith, Alfred & Company	Wichita Falls, Texas	25.00
Smith, Prince, & Harris	Santa Fe Building, Dallas, Texas	59,167.50
C. D. Turner	First State Bank Building, McAllen, Texas	25.00
J. G. Vaughan	4512 Travis St., Dallas, Texas	*2,746.04
B. Werkenthin	Accountant, Austin, Texas	44,785.00
Woodward, Fondiller, & Ryan	75 Fulton St., New York City, New York	350.00
		<b>\$215,326.31</b>

\*The above totals as designated for Messrs. W. W. Scott and J. G. Vaughan do not include listed for which no copies of bills are on file in this office.

**Motion to Postpone Trial.**

Senator Hopkins moved that the impeachment trial of Judge J. B. Price set for 2 o'clock p. m., today, be postponed until 10 o'clock tomorrow morning.

Senator Parrish moved as a substitute that the trial be postponed until Monday morning at 10 o'clock.

Senator Purl received unanimous consent for Hon. Harry Graves to make a statement concerning the advisability of postponing the impeachment trial of Judge J. B. Price until Monday, September 21. Unanimous consent being granted, Representative Graves stated that such postponement would be agreeable to the managers on the part of the House.

The substitute motion prevailed.  
(See Appendix.)

**Consent to Mimeograph.**

Senator Moore received unanimous consent to suspend the rule requiring bills to be printed and to place mimeographed copies of H. B. No. 19 on the desks of the members in lieu of having it printed.

**Senate Bill No. 2.**

The question recurred upon the pending amendment to the substitute for the amendment to S. B. No. 2.

**Consent to Record Vote.**

Senator Greer received unanimous consent to be recorded as voting "Yea" on the motion to table the amendment by Senator Moore to S. B. No. 2, yesterday.

**Special Order Set.**

Senator DeBerry received unanimous consent to set H. B. No. 19 as special order immediately following final action on the Senate cotton bill.

**Recess.**

On motion of Senator Parr, the Senate, at 12:19 o'clock p. m., recessed until 2 o'clock p. m.

**After Recess.**

The Senate met at 2 o'clock p. m., pursuant to recess, and was called to order by Lieutenant Governor Edgar E. Witt.

**Senate Bill No. 18.**

The Chair laid before the Senate by unanimous consent, the following bill:

By Senator Oneal:

S. B. No. 18, A bill to be entitled "An Act to authorize any county in this State having any claim for money against any person, partnership, corporation, joint stock or other association, to purchase the property of such debtor or debtors, at any sale under any proceedings in bankruptcy, receivership, or in any other judicial proceeding whatever, whenever the commissioners' court of said county, for such price as the commissioners' court may deem advisable and for the best interest of the county, and to have such property by said trustees in bankruptcy, receiver or other judicial officer conveyed and transferred to the county; further authorizing the commissioners' court of any such county to borrow money on the credit of the county, and to execute or cause to be executed the obligations of the county therefor, for the purpose of making such purchases; and further authorizing such county to pledge, hypothecate or mortgage any property so purchased to secure the payment of all sums so borrowed; etc., and declaring an emergency."

The committee report carrying a substitute bill was adopted.

The bill was read second time and passed to engrossment.

On motion of Senator Oneal the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 18 was put on its third reading and final passage, by the following vote:

Yeas—29.

Beck.	Parrish.
Berkeley.	Patton.
Cousins.	Poage.
Cunningham.	Pollard.
DeBerry.	Purl.
Gainer.	Rawlings.
Greer.	Russek.
Hardin.	Small.
Hopkins.	Stevenson.
Hornsby.	Thomason.
Martin.	Williamson.
Moore.	Woodruff.
Neal.	Woodul.
Oneal.	Woodward.
Parr.	

Present—Not Voting.

Holbrook.

Absent—Excused.

Loy.

Read third time and finally passed by the following vote:

Yeas—29.

Beck.	Parrish.
Berkeley.	Patton.
Cousins.	Poage.
Cunningham.	Pollard.
DeBerry.	Purl.
Gainer.	Rawlings.
Greer.	Russek.
Hardin.	Small.
Hopkins.	Stevenson.
Hornsby.	Thomason.
Martin.	Williamson.
Moore.	Woodruff.
Neal.	Woodul.
Oneal.	Woodward.
Parr.	

Present—Not Voting.

Holbrook.

Absent—Excused.

Loy.

#### Senate Bill No. 16.

The Chair laid before the Senate by unanimous consent, the following bill:

By Senator Williamson:

S. B. No. 16, A bill to be entitled "An Act to amend Article 1645, Title 34, of the Revised Civil Statutes of the State of Texas of 1925, as amended by Chapter 35, General and Special Laws passed at the First Called Session of the Fortieth Legislature, as amended by Chapter 28, General and Special Laws passed at the First Called Session of the Forty-first Legislature relating to the appointment and compensation of county auditors in counties containing a population of thirty-five thousand inhabitants, or over, according to the preceding Federal Census, or having a tax valuation of fifteen million dollars, according to the last approved tax roll, and providing for additional compensation for the County Auditors in such counties having more than 200,000 population and not more than 300,000 popula-

tion according to the last Federal census where there is a city and county hospital to care for city and county patients, and where a financial record for such hospital must be kept and reports made to the city and county and providing that if any portion of this Act be declared unconstitutional or invalid, the remainder shall not be affected thereby and declaring an emergency."

The rule requiring committee reports to lie over 24 hours was suspended by unanimous consent.

The committee report was adopted.

The bill was read second time and passed to engrossment.

On motion of Senator Williamson the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 16 was put on its third reading and final passage by the following vote:

Yeas—30.

Beck.	Parr.
Berkeley.	Parrish.
Cousins.	Patton.
Cunningham.	Poage.
DeBerry.	Pollard.
Gainer.	Purl.
Greer.	Rawlings.
Hardin.	Russek.
Holbrook.	Small.
Hopkins.	Stevenson.
Hornsby.	Thomason.
Martin.	Williamson.
Moore.	Woodruff.
Neal.	Woodul.
Oneal.	Woodward.

Absent—Excused.

Loy.

Read third time.

#### Senate Bill No. 2.

The question recurred upon the pending amendment to the substitute for the amendment to S. B. No. 2.

The amendment was lost by the following vote:

Yeas—9.

Beck.	Oneal.
Berkeley.	Parrish.
Gainer.	Pollard.
Holbrook.	Thomason.
Neal.	

## Nays—21.

Cousins.	Poage.
Cunningham.	Purl.
DeBerry.	Rawlings.
Greer.	Russek.
Hardin.	Small.
Hopkins.	Stevenson.
Hornsby.	Williamson.
Martin.	Woodruff.
Moore.	Woodul.
Parr.	Woodward.
Patton.	

Absent—Excused.

Loy.

The substitute for the original amendment was adopted by the following vote:

## Yeas—19.

Cousins.	Patton.
Cunningham.	Poage.
DeBerry.	Purl.
Greer.	Russek.
Hardin.	Small.
Hornsby.	Stevenson.
Martin.	Williamson.
Moore.	Woodul.
Oneal.	Woodward.
Parr.	

## Nays—9.

Berkeley.	Parrish.
Gainer.	Rawlings.
Holbrook.	Thomason.
Hopkins.	Woodruff.
Neal.	

Absent.

Beck.

(Pairs Recorded.)

Senator Pollard (present) who would vote nay, with Senator Loy (absent) who would vote yea.

The amendment as substituted was adopted by the following vote:

## Yeas—19.

Cousins.	Patton.
Cunningham.	Poage.
DeBerry.	Purl.
Greer.	Russek.
Hardin.	Small.
Hornsby.	Stevenson.
Martin.	Williamson.
Moore.	Woodul.
Oneal.	Woodward.
Parr.	

## Nays—9.

Berkeley.	Parrish.
Gainer.	Rawlings.
Holbrook.	Thomason.
Hopkins.	Woodruff.
Neal.	

Absent.

Beck.

(Pairs Recorded.)

Senator Pollard (present) who would vote nay, with Senator Loy (absent) who would vote yea.

Senator Pollard sent up the following amendment:

Amend S. B. No. 2 as amended by adding a new section thereto, known as Section 11A, as follows:

"No mortgage, vendor's lien, deed of trust lien, conditional sales contract, or any other lien of any nature whatsoever secured to be paid by cotton owned by the producers thereof shall be foreclosed until July 31, 1932."

"Section 11B. All proceeds from the sale of mortgaged cotton shall be paid to the lien holder thereof unless released by the lien holder."

POLLARD.

The amendment was read.

Senator Woodward raised the point of order that the amendment was not germane to the subject matter of this bill.

The Chair, Lieutenant Governor Edgar E. Witt, sustained the point of order.

Senator Pollard sent up the following amendment:

Amend S. B. No. 2, as amended, by adding a new section, known as Section 11A, as follows:

"Every person, persons, firm, association of persons, or corporation is expressly prohibited from wrapping cotton when baled with jute or any other material or fabric save and except cotton after January 1, 1932."

POLLARD.

The amendment was read.

Senator Woodward raised the point of order that the amendment was not germane.

The Chair, Lieutenant Governor Edgar E. Witt, sustained the point of order.

Senator DeBerry sent up the following amendment:

Amend S. B. No. 2, by adding a new section and re-numbering the sections accordingly the following:

Sec. 5. That the Governor of the State of Texas be and is hereby directed to suspend, by proclamation, the operation of this Act in the event that not less than a sufficient number of States producing a total quantity of not less than seventy-five (75%) per centum of the cotton grown in the United States during the year 1930, do not enact legislation similar hereto on or before January 15th, 1932. That the United States Government report for the year 1930 shall be used to determine those states which produce not less than seventy-five (75%) per centum of the cotton grown in the United States.

DeBERRY.

Read and lost by the following vote:

Yeas—4.

DeBerry.	Pollard.
Neal.	Thomason.

Nays—26.

Beck.	Parr.
Berkeley.	Parrish.
Cousins.	Patton.
Cunningham.	Poage.
Greer.	Purl.
Hardin.	Rawlings.
Holbrook.	Russek.
Hopkins.	Small.
Hornsby.	Stevenson.
Loy.	Williamson.
Martin.	Woodruff.
Moore.	Woodul.
Oneal.	Woodward.

Absent.

Gainer.

Senator Stevenson sent up the following amendment:

Amend S. B. No. 2, as amended by striking out everything after the enacting clause and inserting in lieu thereof the following:

Section 1. For the purpose of conserving the soil of the State of Texas, as provided in Section 59 A of Article 16 of the Constitution, and in view of the fact that a large percentage of cultivated land in the State of Texas is planted in cotton; and for the reason that much of the land of the State has become sub-

ject to root-rot through continuous planting of cotton; and for the further reason that much of the land in cultivation in the State of Texas is now subject to erosion causing the rapid depletion of the soil; and for the further reason that it is desirable that farmers may earn enough money from the production of crops to purchase fertilizers to maintain the fertility of the soil of their farms, it is hereby enacted.

Sec. 2. No land planted in cotton in the year 1932 shall be re-planted in cotton in the year 1933, and thereafter no land shall be planted in cotton two years in succession.

Sec. 3. The rights and remedies of injunction is hereby expressly granted to any officer of the State and to any citizen or citizens of the State as a means whereby this Act may be enforced and when it is made to appear to any Judge of any District Court in this State by the sworn petition of any citizen of this State that this Act is being, has been, or is threatened to be violated, he shall grant such relief as the law and facts justify.

Sec. 4. All cotton produced from any land in this State in violation of the provisions of this Act shall be forfeited to the State and said cotton shall be seized by the sheriff or any peace officer of any county or precinct in this State, in which said cotton is found, which cotton has been raised on land in violation of the terms of this Act, upon the affidavit of any citizen of the county or precinct in which said violation has occurred, and said cotton shall be sold by the officer so seizing the same, upon the fact being ascertained by any court having jurisdiction of the amount in controversy and the proceeds of said sale shall become the property of the public school fund in the county where such cotton was unlawfully raised, after deducting the expense of the seizure and sale of said cotton.

Sec. 5. If any part of this Act shall be held to be invalid, or if any sentence, section or subsection shall be held to be invalid, it is expressly declared by the Legislature that the remaining parts, sections or subsections shall not in any manner be affected thereby but the remaining portion of said Act of each sentence, section or subsection shall be held

to remain in full force and effect; and it is now declared by the Legislature that notwithstanding the invalidity, if any of any part of this Act, or any section or subsection, the Legislature would have enacted the remaining portion, regardless of the invalidity of any sentence, section or subsection or any other portion thereof.

Sec. 6. The importance of the subject matter herein contained; the limited time within which the Legislature may act; the necessity that farmers may get an advantageous price for cotton in order to obtain money to maintain the fertility of the soil of their farms, creates an emergency and an imperative public necessity that the constitutional rule which requires bills to be read on three several days be suspended and said rule is hereby suspended and this Act shall take effect and be in force from and after its passage; and it is so enacted.

STEVENSON.

The amendment was read.

Senator Woodward moved to table the amendment. The motion prevailed by the following vote:

Yeas—19.

Beck.	Patton.
Berkeley.	Pollard
Cousins.	Purl.
Cunningham.	Rawlings.
DeBerry.	Russek.
Hardin.	Small
Hornsby.	Williamson.
Oneal.	Woodruff.
Parr.	Woodward.
Parrish.	

Nays—11.

Greer.	Neal.
Holbrook.	Poage.
Hopkins.	Stevenson.
Loy.	Thomason.
Martin.	Woodul.
Moore.	

Absent.

Gainer.

Senator Hopkins sent up the following amendment:

Amend S. B. No. 2, as amended by adding thereto a new section to be numbered 11A as follows, viz:

"Provided that all experimental farms maintained by State or Fed-

eral Government agencies and all areas of land cultivated by or under the direction of either State or Federal Governmental agencies for experimental purposes or for developing or improving varieties of cotton or other farm plants shall be exempted from all the provisions of this bill.

HOPKINS.

Read and adopted.

Senator Parrish received unanimous consent to be recorded as voting "no" on the amendment.

Senator Purl sent up the following amendment:

Amend S. B. No. 2, as amended, by adding the following after the word "collected" in line 30, page 2, "Said fees shall be construed as fees of office and shall be accountable as such."

PURL.

Read and adopted.

Senator DeBerry sent up the following amendment:

Amend S. B. No. 2, as amended, by striking out the words "one-fourth" wherever they occur in the bill and substitute in lieu thereof the words "forty per cent."

DeBERRY.

Read and lost by the following vote:

Yeas—13.

Cousins.	Moore.
DeBerry.	Poage.
Hardin.	Purl.
Hopkins.	Rawlings.
Hornsby.	Stevenson.
Loy.	Woodul.
Martin.	

Nays—15.

Berkeley.	Parrish.
Cunningham.	Patton.
Gainer.	Russek.
Greer.	Small.
Holbrook.	Thomason.
Neal.	Williamson.
Oneal.	Woodward.
Parr.	

Absent.

Beck.	Woodruff.
Pollard.	

Senator Oneal sent up the following amendment:



Amend S. B. No. 2, as amended, by adding at the end of Section 11, a new section to be numbered Section 11B.

"The assessors of taxes are, in addition to the authority given them in Article 7184 of the Revised Statutes of 1925, to administer oaths, hereby authorized and empowered to administer all oaths necessary to procure the full and complete information as to cotton acreage provided for in this section.

"And the assessor of taxes, for every failure or neglect to administer the oath or affirmation prescribed in this section to each person rendering a list of lands for taxes under this section, unless the person refuses to qualify, shall forfeit fifty dollars to be deducted out of his commissions upon satisfactory information furnished the county judge; and for each failure or neglect to attest the oath subscribed to as provided in this section, shall forfeit the sum of fifty dollars upon satisfactory information furnished the county judge. The forfeitures imposed in this section shall be deducted from the assessor's commissions on assessment for county taxes."

ONEAL.

Read and adopted by the following vote:

Yeas—18.

Beck.	Neal.
Berkeley.	Oneal.
Cunningham.	Parr.
DeBerry.	Parrish.
Greer.	Poage.
Hardin.	Purl.
Loy.	Small.
Martin.	Williamson.
Moore.	Woodward.

Nays—10.

Holbrook.	Russek.
Hopkins.	Stevenson.
Hornsby.	Thomason.
Pollard.	Woodruff.
Rawlings.	Woodul.

Absent.

Cousins.	Patton.
Gainer.	

Senator Moore sent up the following amendment:

Amend S. B. No. 2, as amended, as follows:

Page 1 line 52 by striking out the words "one-fourth" and inserting in lieu thereof the words "one-half" and by adding after the word "cultivation" in line 52 the words "in cotton."

MOORE,	STEVENSON,
HOLBROOK,	WOODRUFF,
MARTIN,	DeBERRY.
POLLARD,	

The amendment was read.

Senator Woodward raised the point of order that this amendment covered the same subject matter as that embodied in a previous amendment which had been killed.

The Chair, Senator Berkeley, sustained the point of order.

Senator Moore received unanimous consent to change the words "one-half" to "fifty-one per cent" in the amendment.

Senator Woodward raised the point of order that the change was not a material one and therefore the amendment was out of order.

The Chair, Lieutenant Governor Edgar E. Witt, overruled the point of order.

Motion to Re-refer.

Senator Small moved to re-refer H. B. No. 27 to the Committee on State Affairs. The motion prevailed.

Messages From the House.

Hall of the House of Representatives,  
Austin, Texas, Sept. 17, 1931.  
Hon. Edgar E. Witt, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills and resolutions:

H. B. No. 33, A bill to be entitled "An Act waiving the right of the State of Texas to enter upon, for the purpose of development of mines, minerals and mineral rights, including oil and gas thereunder, all lands heretofore granted, or that may hereafter be granted, under Article 8225, of the Revised Statutes, to any navigation district, and by such district conveyed, or that may hereafter be conveyed, to the United States of America for navigation purposes, so long as such lands shall be used by the United States of America, or such navigation district, for navigation

purposes, and declaring an emergency."

H. C. R. No. 7, Requesting the President of the United States to call an International Cotton Conference.

H. C. R. No. 10, Requesting the Federal Farm Board for a definite announcement.

H. C. R. No. 11, Encouraging commodity credits.

Respectfully submitted,  
LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

#### Simple Resolution No. 11.

Senator Moore sent up the following resolution:

Resolved, That the Contingent Expense Committee be authorized to pay from the Contingent Expense fund of the Senate for spray for Hon. C. K. Walters.

MOORE.

Read and adopted.

#### House Bills Referred.

H. B. No. 33, referred to Committee on Mining, Irrigation and Drainage.

#### Recess.

On motion of Senator Woodward, the Senate, at 5:14 o'clock p. m., recessed until 9:30 o'clock tomorrow morning.

### APPENDIX.

#### Committee on Engrossed Bills.

Committee Room,  
Austin, Texas, Sept. 17, 1931.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 18, carefully examined and compared and find same correctly engrossed.

HARDIN, Chairman.

Committee Room,  
Austin, Texas, Sept. 17, 1931.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 16, carefully examined and compared and find same correctly engrossed.

HARDIN, Chairman.

Committee Room,  
Austin, Texas, Sept. 17, 1931.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 13, carefully examined and compared and find same correctly engrossed.

HARDIN, Chairman.

#### Committee Reports.

Committee Room,  
Austin, Texas, Sept. 17, 1931.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

H. B. No. 19, A bill to be entitled "An Act repealing subdivision four (4) of Article 7047 of the Revised Civil Statutes of 1925, as amended by Chapter 212, Acts of the Regular Session of the Forty-second Legislature, levying an occupation tax on peddlers; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and that the bill be mimeographed in lieu of regular printed form.

MOORE, Chairman.

Committee Room,  
Austin, Texas, Sept. 17, 1931.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on State Affairs to whom was referred

H. B. No. 27, A bill to be entitled "An Act providing that the river bed of the Trinity River in Henderson and Navarro counties shall not be sold and shall remain open to the public for fishing and hunting with the specific reference to that portion of the Trinity River known as the Cut Off; and providing that the commissioners' courts of Henderson and Navarro counties shall have the right of condemnation to procure rights of way to said river or Cut Off, and giving to the Game, Fish and Oyster Commission authority to make regulations controlling fishing and hunting on said Cut Off of the Trinity River, and providing a penalty for violations of same; and declaring an emergency."

Have had the same under consideration, and I am instructed to re-

port it back to the Senate with the recommendation that it do pass.

MOORE, Chairman.

Committee Room,

Austin, Texas, Sept. 17, 1931.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred H. B. No. 39, A bill to be entitled "An Act making it lawful to hunt wounded wild deer with one dog in the counties of Liberty and Hardin, Texas, during the open season of each year for a period of five (5) years, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

MOORE, Chairman.

Committee Room,

Austin, Texas, Sept. 17, 1931.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 22, A bill to be entitled "An Act to amend Section 28, Chapter 16, of the General Laws passed by the Thirty-ninth Legislature, at its First Called Session, by adding thereto two new sections, known as Section 16-A and Section 16-B; providing that where any road district includes within its limits portions of a previously created road district, subdivision or precinct, having road bond debts outstanding, the newly created road district may issue bonds for the purchase of roads within the previously created district, subdivision or precinct; providing that such bonds shall be authorized and issued in the form and manner prescribed by General Law; providing that nothing in this Act shall affect or impair any bond debts of previously created road districts, subdivision or precincts, portions of which may be included within the subsequently created road district, but that such indebtedness shall remain chargeable against the territory voting the same, etc."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

WOODWARD, Chairman.

### The Senate As a Court of Impeachment.

Thursday, September 17, 1931,

10:00 o'clock A. M.

Upon motion duly made and carried the High Court of Impeachment, sitting to consider the charges presented by the Board of Managers of the House of Representatives against J. B. Price, Judge of the 21st Judicial District of Texas, postponed said hearing until Monday, September 21st, 1931, at 10:00 o'clock A. M.

### DEMURRERS FILED.

In the matter of the impeachment of J. B. Price, District Judge, before the Senate of the State of Texas.

Respondent J. B. Price, answering the Articles of Impeachment says:

#### I.

Respondent demurs generally to the Articles of Impeachment and says that if the statements therein made were true, they would not constitute grounds or reasons upon which impeachment could be based.

#### II.

Especially excepting to the Articles of Impeachment, respondent says that the charges therein made present no ground for impeachment for the following reasons:

(1) Because the matters included in the charges are such as, under the Constitution of Texas, even if sufficient to remove respondent from office, were such as required procedure by address or by removal by the Supreme Court and not by impeachment.

(2) That the Constitution provides, Art. XIV, Sec. 8, that "the judges of the \* \* \* District Court shall be removed by the Governor on the address of two-thirds of each house of the Legislature for wilful neglect of duty, incompetency, habitual drunkardness, oppression in office or other reasonable cause which shall not be sufficient grounds for impeachment"; that respondent is not charged with any offense amounting to as much as "wilful neglect of duty" nor of any of the other offenses enumerated by the Constitution as not "sufficient ground for impeachment", and if therefore he may be removed from office at all by the

Legislature, he is not subject to impeachment, but is subject alone to the constitutional process of address.

(3) The facts detailed in the several articles of impeachment do not in either one of them show gross negligence and the legal conclusions stated in the articles that respondent was guilty of gross negligence in the absence of facts showing such negligence, would be insufficient even if gross negligence were a sufficient cause for impeachment; gross negligence involves a lesser degree of culpability than "wilful neglect of duty" and if under any circumstance ground for removal from office exists, the removal must be by address based upon a "reasonable cause which shall not be sufficient ground for impeachment" instead of by impeachment.

(4) The constitutional provision authorizing the House of Representatives to impeach certain named officers is not self-executing and no statute has been passed defining the causes for which impeachment may be had.

(5) If impeachment may be in the absence of legislation defining the causes for which impeachment may lie, nevertheless no impeachment can be presented except for an indictable offense constituting a high crime or misdemeanor or some offense involving official corruption or moral turpitude in connection with the discharge of official duties.

(6) It is the long settled policy of Texas as declared by her written laws to define in plain and unequivocal language every offense for which punishment may be assessed and to indicate in definite terms the penalties to be assessed therefor. This policy designed to protect the citizen is violated by the procedure herein. The House, recognizing no limits on its authority, charges an offense not known to the law. The Senate acts as a Legislative body and a judicial body at the same time by creating the offense and passing on the guilt of the person charged.

(7) If in the absence of legislation impeachment may be had for any cause or reason, it may not be passed upon any ground except those indicated and sanctioned by the cause of impeachment by the legislative bodies of America and Great Britain and the results of impeach-

ment trials in these jurisdictions deny the right of impeachment except for indictable crimes and for offenses involving moral turpitude, official corruption or the abuse of official power.

(8) Impeachment herein cannot be sustained because no one of the articles charges any conduct or act beyond carelessness (the facts recited do not evidence gross carelessness) and does not charge official corruption, dishonesty, or abuse of official power.

(9) Specially excepting to Article I, respondent says that it appears therefrom that it refers to action by him prior to his election as district judge for the term for which he now holds, and cannot therefore be the subject matter of impeachment.

### III.

Answering the several charges which have been made against respondent in the Articles of Impeachment, he says:

(1) He denies that he has been guilty of gross carelessness or of any other act or omission for which he should be removed from office. He says that in approving the accounts of sheriffs detailed in the charges, he relied upon the affidavits made by the sheriffs and did not assume that any further investigation was required, and believes that the Articles of the Court of Criminal Procedure (1034) which directs an examination by him of such accounts did not require him to go beyond what he thought was necessary; that in relying upon such sworn statements he had no reason to assume that these officers were not properly discharging their duties and making legal charges and accounts against the State. His approval of the several accounts named in the charges were made in the final days of the term at which these accounts were presented and when there was much other business necessary to be disposed of by him and when it was impracticable, even if he had thought it necessary, for him to have made a minute investigation of each of the items of charge entered in said accounts. When these approvals were made by him, it was with knowledge of the fact that the law required the Comptroller of the State to also examine the accounts and correct errors that

might be discovered therein. That the facilities and opportunities of the Comptroller for detecting errors were better than those at his command. He relied upon this fact and upon this account exercised less care than he might otherwise have thought necessary; that throughout he acted without any consciousness of wrong and under the assumption that he was properly discharging the duties of his office.

(2) That the Article of the Court of Criminal Procedure directing respondent to examine the accounts of the sheriffs was followed by Article 1035 requiring the Comptroller to likewise examine the accounts; that at the several times at which the accounts set forth in the article were approved, the appropriations to pay said accounts were made subject to the following provisions:

The acts making appropriation for the periods beginning September 1st, 1925, and ending Aug. 31, 1927, and the period beginning September 1st, 1927, and ending Aug. 31, 1929, contained the following provision—page 438, Acts of 1927—"Provided that all accounts under this Section which require the approval of any district judge shall be examined by the Comptroller and if correct he shall issue his warrants therefor, and if he should find same incorrect, in whole or in part, he may within a reasonable time cause an audit of same to be made before warrant is issued."

The act making the appropriation for the period beginning September 1st, 1929, and ending Aug. 31, 1931, contains the following provision (Gen. Laws, 1929, Third Called Session, p. 495.)

"Provided that no account against the aforesaid items of witness fees, county attorneys, justice of peace, sheriffs and constables, fees and costs of sheriffs, attorneys and clerks in felony cases, shall be binding as an obligation against the State of Texas until after such account has been examined, audited and approved by the State Comptroller, and no such account shall be paid by the State Treasurer until the same has been so approved by the Comptroller."

(3) That as to the accounts referred to in Articles 3, 4, 5, 6, 7, 8, 9 and 10, the Articles make statements of facts of which he had no

knowledge at the time he approved the several accounts and with reference to which he at that time had no cause or occasion to make any inquiry; that if the facts as to the conduct of the sheriffs and other matters covered by these Articles are true, it appears that the accounts are erroneous, but these facts escaped the attention of respondent, as they were likewise overlooked by the Comptroller; that respondent believes that the development of the facts related required weeks of the time of expert auditors and investigators and does not believe that he was guilty of gross negligence when without a knowledge of the facts, or of any fact to put him upon notice or inquiry, and acting upon the oaths of the sheriffs involved, he approved the accounts. He denies that he was guilty with reference to such accounts of gross negligence or of any conduct for which he should be impeached.

(4) Respondent says with regard to Article of Impeachment No. 12 that in the winding up of the term of his court therein referred to, and acting with the District Clerk of his Court in the preparation of accounts of non-resident witnesses and contemporaneously therewith, he signed some of the account blanks after filling in and at the same time signed additional blanks to be filled in for specific witnesses; that some of the witnesses last referred to left before making their claims as witnesses, and the blanks signed for them were not claimed; that all this was done in the presence of the District Clerk and in co-operation with him in winding up the business of the term; that the completion of the account required the signature and oath of the District Clerk; that no harm has resulted to the State or anybody by this effort to dispose of the business of the Court.

Finally Respondent says that he has for many years served the people of his county and judicial district; that he has honestly served them to the best of his ability, and he believes to their entire satisfaction; that he has at all times exercised for their protection such diligence and care as he thought necessary; that he has never at any time wilfully neglected the discharge of his duties,

and if he has in any sense failed, it was not intentional.

J. B. PRICE,  
Respondent,

### FIFTH DAY.

(Continued.)

Senate Chamber,  
Austin, Texas,  
September 18, 1931.

The Senate met at 9:30 o'clock a. m., pursuant to recess, and was called to order by Lieutenant Governor Edgar E. Witt.

#### Senator Excused.

On motion of Senator Rawlings, Senator Berkeley was excused for today and the rest of the week on account of the death of a friend.

#### Senate Bill No. 2.

The question recurred upon the pending amendment to S. B. No. 2.

Senator Woodward moved to table the amendment. The motion prevailed by the following vote:

Yeas—15.

Cunningham.	Purl.
Greer.	Rawlings.
Hornsby.	Russek.
Oneal.	Small.
Parr.	Thomason.
Parrish.	Williamson.
Patton.	Woodward.
Poage.	

Nays—11.

Cousins.	Moore.
DeBerry.	Neal.
Hardin.	Pollard.
Holbrook.	Stevenson.
Hopkins.	Woodruff.
Martin.	

Absent.

Beck.	Loy.
Gainer.	

(Pair Recorded.)

Senator Woodul (present) who would vote nay, with Senator Berkeley (absent) who would vote yea.

Senator Martin sent up the following amendment:

Amend S. B. No. 2, as amended by striking out all of Section 1, and all

of Section 2 of the said bill, and by changing the figures "1934" in line 5, Section 4, page 2, to "1933," and by changing the figures "1933" in line 7, Section 4, page 2, to "1932."

MARTIN.

Read and lost by the following vote:

Yeas—6.

Cousins.	Moore.
Hopkins.	Stevenson.
Martin.	Woodruff.

Nays—16.

Beck.	Parrish.
Cunningham.	Poage.
Greer.	Pollard.
Holbrook.	Russek.
Hornsby.	Small.
Loy.	Thomason.
Oneal.	Williamson.
Parr.	Woodward.

Present—Not Voting.

DeBerry.	Rawlings.
Neal.	

Absent.

Gainer.	Patton.
Hardin.	Purl.

(Pair Recorded.)

Senator Woodul (present) who would vote yea, with Senator Berkeley (absent) who would vote nay.

Senator Martin sent up the following amendment:

Amend S. B. No. 2, as amended by adding at the end of Section 2, page 1, the following:

"And provided further that no part of any lands not in cultivation during the year 1931 shall be planted in cotton during the year 1932, and no lands, which have heretofore been in cultivation and which have not been planted to any kind of cultivatable crop during the past five years next preceding January 1st, 1932, shall be planted to cotton during the year 1932."

MARTIN.

The amendment was read.

Senator Purl moved the previous question on the amendment and the further consideration of the bill with the understanding that Senators Moore, Rawlings, and Martin would be allowed to send up amendments to be acted on without discussion